

BOARD OF APPEALS CASE NO. 5307

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BEFORE THE

APPLICANT: Spenceola II Umbrella Association

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ZONING HEARING EXAMINER

REQUEST: Variance to permit a permanent residential entrance sign within the required setbacks and road right-of-way; Mardic Drive and Spenceola Parkway, Forest Hill

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 11/6/02 & 11/13/02

HEARING DATE: December 30, 2002

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Record: 11/8/02 & 11/15/02

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Spenceola II Umbrella Association, is requesting a variance, pursuant to Section 219-7K of the Harford County Sign Code, to allow a permanent residential entrance sign with less than the required ten (10) foot setback from the road right-of-way and a variance, pursuant to Section 219-14B, to allow a permanent residential entrance sign on the road right-of-way in an R2/COS District.

The subject sign and parcel are located at Mardic Drive and Spenceola Parkway at the entrance to Spenceola Farms subdivision. The location is more particularly identified on Tax Map 40, Grid 2E, Parcel 411. The parcel is zoned R2/COS and is entirely within the Third Election District.

Mr. Patrick Barrett appeared on behalf of the Applicant. The witness used Exhibit No. 6A, enclosed with the file, to describe the existing sign and pointed out that this request is to maintain this sign in its present location and at its present size and overall appearance. Mr. Barrett pointed out that there is no other location for this sign. If placed further back, the sign would not be visible to passing motorists, defeating the purpose of an entrance sign. Because of existing roads, grades and the road configuration, the situation, according to the witness, is unique and warrants a variance. While the sign is in the road right-of-way, it has been at its present location for 3 years without any adverse impact.

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Mr. Anthony McClune appeared on behalf of the Department of Planning and Zoning. According to McClune, this sign is located in the right of way, a condition generally prohibited by the Harford County Code. However, McClune pointed out that the sign will have no adverse impact if it remains at this location and that the normal safety concerns associated with other signs that may be located in a road right-of-way do not exist at this location. There is no sight distance disturbance or interference associated with this sign and the sign is 8 feet off of the road surface. The road is a residential development road and speed limits are low as a result. The Department of Public Works was consulted and that Department agreed that the sign could remain where it presently stands. McClune stated that the Department looked at alternative locations for the sign that would not require a variance for placement and would still provide the notice intended to be provided by a residential entrance sign. The witness said that NRD areas exist to both sides of the present location and there are grades to the rear that would defeat visibility if the sign were moved back. As a result of this unique set of circumstances the present location is the only reasonable location for the sign. Mr. McClune concluded by stating that, in his opinion, a grant of the variance would be consistent with good planning and zoning principles and practices and recommended the Department's approval of the request.

There were no persons that appeared in opposition to the subject request.

CONCLUSION:

The Applicant, Spenceola II Umbrella Association, is requesting a variance, pursuant to Section 219-7K of the Harford County Sign Code, to allow a permanent residential entrance sign with less than the required ten (10) foot setback from the road right-of-way, and a variance, pursuant to Section 219-14B, to allow a permanent residential entrance sign on the road right-of-way in an R2/COS District.

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The provisions of the Harford County Code applicable to this request provide as follows:

Section 219-7K

“Permanent residential entrance or development project identification signs. Residential entrance or development project identification sign with letters or advertising area not to exceed a total area of 32 square feet shall be permitted on the property, provided that it is located not less than 10 feet from the road right-of-way line. In addition, the height of the sign or structure shall not exceed 6 feet. If the parcel or lot has a multiple frontage of at least 50 feet, additional signs with letters or advertising area not to exceed a total of 32 square feet shall be permitted. Such sign or structure shall not exceed 6 feet in height and shall not be located less than 10 feet from the road right-of-way. Said signs may be split entrance signs; however, the overall advertising area may not exceed the 32 square feet.”

Section 219-14

“Prohibited signs.

- A. The following signs are prohibited in all districts and shall be removed in accordance with § 219-10:**
 - (1) Signs containing statements, words or pictures of an obscene, indecent or immoral character that offend public morals or decency of the community.**
 - (2) Signs of a size, location, movement, content, coloration or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any permitted signs or which distract or obstruct the view of road or pedestrian traffic in any direction at a road intersection.**
 - (3) Unless authorized by the utility, signs posted on any building, fence, pole or other property owned, leased or controlled by a public utility.**
- B. Except as provided in § 219-7A, signs which are placed within the county or state right-of-way are prohibited and shall be removed immediately by the enforcement officer or the appropriate highway authority.”**

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Section 219-7A

“Exemptions. The following types of signs are exempt from all the provisions of this chapter, except for construction and safety regulations and the following standards:

- A. Public signs: public signs erected by or on the order of a public official in the performance of duty, such as but not limited to directional signs, regulatory signs, warning signs, informational signs and legal notices.”**

Variances from Sign Code provisions may be granted if the request can meet the requirements of Section 219-17 of the Harford County Sign Code, which provides:

“Variances.

The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”

Based on the testimony of the witnesses and the various exhibits provided with the file, the Hearing Examiner concludes that there are unique circumstances associated with the location of this particular sign that serve to justify the grant of the variance. There is no other practical location for the sign and the present location serves the purposes of a residential entrance sign without any adverse impacts. The Department of Public Works and the Department of Planning and Zoning have determined that no safety hazards are associated with this sign at this location and the Hearing Examiner accepts the expertise of those Departments in that regard, particularly absent any testimony to the contrary.

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The Hearing Examiner, therefore, recommends approval subject, to the following conditions:

1. The Applicant obtain the necessary permits and inspections.
2. The Applicant shall not enlarge the sign or move it closer to the road surface.
3. If at any time the sign needs to be removed at the request of the Department of Public Works, the Applicant shall bear the expense of said removal and shall comply with any such request within a reasonable period of time.

Date JANUARY 30, 2003

William F. Casey
Zoning Hearing Examiner

